App I IX 4

Previous References

194 4 Municipal File No 42-44
Serial Nos 101, 102

Later References

12

GENERAL AND REVENUE SECRETARIAT

Serial Nos Two

Part B for Jany '45

SUBJECT

Election of Mr K Muthanna as Vice President of the Holenarsipur TMC

The Commissioner M G

L 7053 dated 15/1/45

T & others

26/2

Continuation Sheet File No 4764/44 P of Page ~~4850~~ 1
Current No

from the D C Hassan dt

No MC 642/44 dt 9/12/44

Requests orders on the election of Dr H. Muthanna as Vice President of the ~~Seat~~ Holenarsipur Town Mpl. Cl.

x D It encloses a[illegible] petition from certain Mpl. members contesting the validity of election of Dr Muthanna as the Vice President of this Mpl. Cl.

B The S D O Hassan who has conducted the enquiry in the matter finds no irregularity in the process of the election.

The Law section may, however, be referred to to record its opinion on the objections raised about the validity of the election & the findings of the enquiry officer thereon.

A report of

Submitted.

M A 12/12

This may be done in the first instance

Law Secy 12/12/44

13.12.44

Asst Secy Law Dept

18/12/44

Submitted [illegible] at [illegible] # B 15/12/44

This is an objection petition from certain municipal members contesting

SECY LAW DEPT
68161
13-12-1944
GOVT OF MYSORE

the validity of ~~the~~ election of Mr Muthanna as the Vice President of the Holenarsipur Town Municipality

The chief contentions of the petitioners (Fg D) are,—

1 ~~whe~~that the notice of meeting d 20 8 44 was in contravention of Rule 1 & 6 A of the Election Rules

2 ~~whether~~that the President disallowing the withdrawal of the candidate before the 2nd poll ~~and the President disallowing~~ it is ~~revoked~~ contrary to law

The Municipal Council resolved to have a Vice President at its meeting held on 1 8 44 (Flag D) President's report. The calendar of events (Fg E) fixing the date of election as 27 8 44 is dated 5 8 44 In the report of the S D O (Flag B) it is stated that another notice written in the memo book notifying the date of the special meeting has been issued on 20 8 44

The point for consideration is whether a proper notice of the special meeting was given under Rule 1 of the Rules

Rule 1 says that the election shall take place at a special meeting, the date of meeting ~~to~~ being not later than one month from the date of the resolution of the council to have a Vice President dated 1 8 44. But the proviso says that at least 15 days notice of such meeting shall be given during the said period of one month

In the present case, the calendar of events dated 5 8 44 may be taken as the notice contemplated under the proviso, in as much as the Rules do not contemplate a separate calendar of events to be published. The petitioners cannot contend that the notice d 20 8 44 is the invalid notice, because nominations ~~of candidates~~ are not made only after such notice of meeting under Rule 3. Here the nominations have taken place after the notice dated 5 8 44 (the calendar date).

It appears therefore that the calendar of events dated 5 8 44 is the proper notice ~~dated~~ under the proviso to Rule 1.

Regarding the 2nd ~~count~~ item objection, that the President was wrong in disallowing the withdrawal before the 2nd poll commenced, kind ref is invited to the discussion in the connected file No L 1571 - M 56 41/21 d 20 8 45, and to ~~rule~~ 6 the amended//

rule 6 A thereof (F g J) which says — that any candidate for the office of the V P may withdraw his candidature by notice in writing "before the poll has commenced

In the present case, one Khandavaya Setty, one of the candidates sent in his withdrawal application (FyM) before the poll for the second round commenced. As per Rule 6 A it appears 'poll' has to be construed to be the first poll because it does not necessarily contemplate the existence of several rounds of poll in an election. There may be a case ~~whether~~ ~~whether~~ where after the first poll, two candidates may be left with equal no of votes requiring election by ballot. If it is to be interpreted being the first 'poll' and the beginning of the election, then, it appears the R at withdrawal application was rightly disallowed.

Kind ref is invited to Rule 4 of the Rules for election of President, V P of City Municipal Council

4764/ [illegible]

Election of [illegible] Muthanna, as Vice President Holenarsipur MC

5

which allows a candidate to withdraw at any stage. The other objection appears to be an irregularity which may be condoned under Rule 14 of the Rules.

Submitted for orders

[illegible]
28.12

[illegible]
29/12

I have gone through the whole record, I hold that there is no irregularity which goes to vitiate the Election proceedings as a whole, as such the Election of the [illegible] may be held to be valid.

The objection [illegible] Hon [illegible] it is seen that these two persons [illegible] the same Candidate [illegible] it is alleged that the Notice as per Rule 14 of the Rules was issued. This is not correct. The Resolution to have a Vice President was passed on 1-8-44 [illegible] the notice contemplated under the provisions to hold a special meeting for the purpose of Electing a Vice President was sent on 5-8-44 [illegible] the contention of the petitioner that [illegible] a valid notice [illegible] of the Rules [illegible] not make any

1/9/

provision for a Calendar of Events of Exh E is perused, it is seen that it is a clear notice intimating to the Canvassing parties that the meeting for the Election of the [illegible] would be held on 27 8 44 — which meets not only the requirements of Rule 1(a) but also the proviso to Rule 1 of the Rules. The other notice which is said to have been issued is not the required notice & it is superfluous. Further, all the parties have received Exh E as a notice & have acknowledged it & acted on it as required by the Rules. I therefore hold that Exh E is a valid notice & the objection of the petitioners on this account is untenable

As re point 2 — (iii) the rejection of the withdrawal notice of Mr Khaweran Shetty before the poll commenced, I hold that the rejection was valid. Rule 6(a) is to the effect that withdrawal notice should be presented before the poll has commenced. The interpretation the President is correct. The words a poll has commenced means before the polling has actually started. Hence no one can withdraw after the polling has started which means after the Poll. Hence the objection also is not tenable

Further, I do not see how the rejection of the withdrawal notice has any way prejudiced the election. Hence even if it is considered to be an irregularity, it is of a minor nature, & it is not one which is contrary to the provisions of the Act or the Rules.

The other points are not worth considering at all, for they do not contravene any of the provisions of [illegible], nor have they in any way affected any party adversely.

Hence the objection petition may be dismissed — & the election of Mr [illegible] upheld.

SECY LAW DEPT
6313
6/1/45
GOVT OF MYSORE

Law Secretary) [illegible] 6/1/45

Addl. Secy) L.S.G.) [illegible] 9/1/45

[illegible] 8/1/[illegible]

The opinion of the Law Department may be accepted & a notn issued approving the election of Mr K. [illegible] as the Vice President of the [illegible] Town Municipality. There are no material irregularities & the objections raised are untenable.

SECY ... DEPT
5403
10/1/45
...ORE

Law Secy) [illegible] 9/1/45

There are no material irregularities. The objection is untenable. The election is approved.

Draft notn pl. issue
[illegible] 11/1

([illegible] remarks on Departmental [illegible] [illegible] [illegible]) [illegible] 1 [illegible]

4010

U P to [illegible]

A draft notification is put up.

1 ... CFN SECTT

[illegible]
JAC 10/1
W 11/1

Issue 17/1

To,

Messrs [illegible]

No 27053 d 15-1-45

notifies the election

BM 27/1

C F No 46]

GOVERNMENT OF MYSORE

10/10/19

No L C 642/44-45 **OFFICE OF** The Deputy Commissioner
Hassan District
Encls Records

Dated the 9th December 1944.

GOVT LAW DEPT
GOVT OF MYSORE

To
The Legal Remembrancer &
Law Secretary to Government of Mysore,
BANGALORE

M Nov 44 101

Re Election of a Vice-President to Holenarsipur Town Municipal Council, -----

I have the honour to state that the Town Municipal Council of Holenarsipur which was reconstituted from 1-7-44 passed a resolution at its meeting held on 1-8-44 expressing its desire to have a non-official Vice president to the Municipality. Accordingly the election of the Vice president was conducted at a special meeting held on 27-8-44 There were 5 candidates for the office One candidate Mr H M Seetharamiah withdrew his candidature and votes were taken amongst the remaining four candidates by elimination process Mr K Muthanna secured the larger number of votes viz , 12, and he was delcared elected as Vice President

Mr J P KhanderayaSetty and other three Municipal Councillors filed a petition on 29-8-44 contesting the validity of the election This was referred to the Sub Division Officer, Hassan for enquiry and report under Rule 13 of the Election Rules The Sub Division Officer after enquiry has submitted a detailed report with his No C 1/90/44-45 dated 1-11-44 and the same is enclosed for reference The proviso to Rule 1 of the election rules requires 15 days' notice to convene meetings for election of Vice presidents and this is mandatory In this case a notice has been issued on 5-8-44 specifying the calendar of events The enquiry officer has stated that another notice written in the memo book notifying the date of the special meeting has been issued on 20-8-44 The contention is that the notice issued on 20-8-44, is short of 15 days notice as required in the proviso to rule 1 and that the first one dated 5-8-44 is only a calendar of events The other contentions are dealt with in the report of the Sub Division Officer It is for consideration and a point for order

P T O

[illegible]

10

point for ~~xxxxxxxxxxxxx~~ order whether a further notice is required in Rule 1 is not superfluous in view of the calender issued on 5-8-44, I consider the second notice as superfluous

I request for early orders regarding the election of Mr K Muthar as Vice President of Holenarsipur Town Municipal Council The Connected records are enclosed

I have the honour to be,
Sir,
Your most obedient servant,
Humayun Raja
Deputy Commissioner,
Hassan District
9/12/44

SR

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

No. L-7053
M-42-44-102

General and Revenue Secretariat

Dated Bangalore 15th January *194*3

NOTIFICATION

Under Section [illegible]3(4) of the Mysore Town Municipalities Act, 19[illegible], Mr. I. Lath[illegible] is elected Vice-President of the Holenarsipur Town Municipal Council, Hassan District.

By Order.

Secretary to Government,
[illegible] Secretariat.

To

The Compiler, Mysore Gazette for publication
in Part [illegible] of the Gazette and to supply
of [illegible] copies [illegible] to the Deputy Commis-
sioner, Hassan District and [illegible].

AG-/12.

L-7053-54 42-44-102 12 copies 15/1/45

G R S App F G 3 AV

GENERAL AND REVENUE
SECRETARIAT

(*Continuation sheet draft form*)

Notification

Under section 23(4) of the Mysore Town Municipalities Act, 1933, Mr K ~~Mu~~ Muthanna is elected Vice President of the Holenarsipur Town Municipality, Hassan Dt.

BO

for Secy Law

To,

The Compiler, Mysore Gazette for publication in Part III-3 of the gazette and supply of ~~ten~~ twe copies thereof to the D C Hassan Dt. for record.

Memo No L 7054 15/1/45

copy of the above forwarded with compliments to the D C Hassan Dt for information with reference to his letter No ML c 642/44 d/ 1-12-44

BO

for Secy Law

There are no material irregularities in the election held and the objections preferred are untenable → Records accompany

WD 0565—GPB—22,500—8 11 38